

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2304 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

G.S.R.T.C.

Versus

NAVIN M PANDYA

Appearance:

1. Special Civil Application No. 2304 of 1996
MR HS MUNSHAW for Petitioner No. 1
MR RV DESAI for Respondent No. 1
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CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 26/03/2004

ORAL JUDGEMENT

Heard learned advocate Mr. H.S.Munshaw for the
petitioner-Corporation and learned advocate Mr.
R.V.Desai appearing on behalf of the respondent-workman.

2. In the present petition, petitioner has
challenged the award passed by the Labour Court, Rajkot

in Reference (LCR) No. 843 of 1991 dated 7.9.1995 wherein, Labour Court has directed to the Corporation to reinstate the respondent workman on the post of Helper with continuity of service and without back wages of interim period. Before filing the present petition by the Corporation, the award has been implemented by the Corporation after reinstating the respondent workman in service with effect from 16.12.1995. The petition has been filed by the Corporation before the registry of this Court on 25.3.1996. However, this fact has not been brought to the notice of the Court by the Corporation and obtained the ad interim order against the execution of the award. Therefore, Civil Application No. 7265 of 1996 has been filed by the respondent workman with a prayer that ad interim relief may be vacated as, prior to that order, respondent workman was already reinstated in service by order dated 16.12.1995 and at that occasion, the pay slip of July, 1996 was also produced on record. Therefore, this Court has passed an order dated 9.9.1996. This Court has considered the order of reinstatement passed by the Corporation and therefore earlier ad interim relief granted by this Court has been modified and directed to maintain status quo until further orders and Civil Application was disposed of. Now, learned advocate Mr. Munshaw submitted that since 1995 the respondent is working with the Corporation, but he submitted that looking to the misconduct which is found to be serious and that is how he has been reinstated in an alternative post but merely denial of back wages is not enough punishment and some other punishment may be imposed on the workman so that he may remember the misconduct in question.

3. In light of the submissions made by Mr. Munshaw, learned advocate Mr. R.V.Desai has submitted that sufficient penalty has been imposed by the Labour Court while giving appointment in the alternative post of Helper, i.e. lower post and denied the total back wages of interim period. But, however, he submitted that he leave it to the Court for reasonable punishment to be imposed against the respondent workman.

4. I have considered the submissions made by both the learned advocates. Considering the fact that workman is already reinstated in service w.e.f. 16.12.1995, and subsequently, ad interim order has been obtained from this Court by the Corporation, and also considering the past record of the respondent workman which has been placed on record by the Corporation at page 37, if stoppage of two increments without cumulative effect is imposed against the workman, the same will meet the ends

of justice. Accordingly, Corporation is entitled to impose punishment of stoppage of two increments without cumulative effect on the respondent workman and in view of this order, the award passed by the Labour Court in Reference (LCR) No. 843 of 1991 dated 7.9.1995 is modified to that effect, except that, rest of the award remain intact and not disturbed by this Court. Accordingly rule is made absolute to the aforesaid extent. No order as to costs. Interim relief, if any, stands vacated.

(H.K.Rathod, J)

Jayanti*